BOOK 5116 PAGE 225

This Instrument Was Prepared By
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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR POSTWOOD

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter sometimes referred to as "Declaration") is made and published this 28th day of January, 1978, by and between J. Richard Chambers, Trustee, (hereinafter sometimes referred to as "Developer") and any and all persons, firms or corporations hereafter acquiring any of the within described property.

W I T N E S S E T H :

WHEREAS, Developer is the owner of a subdivision in the County of Davidson, State of Tennessee, known as Postwood, as shown upon a plan of record in Book 5050, page 41, Register's Office for said County; and

WHEREAS, it is in the best interest of Developer, as well as to the benefit, interest and advantage of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions and easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in this development; and for the continued maintenance and operation of such common areas as may be provided;

NOW, THEREFORE, in consideration of the premises, the Developer agrees with any and all persons, firms, corporations or other entities hereafter acquiring any of the property hereinafter described, that the same shall be and is hereby subject to the following restrictions, covenants, conditions, easements, assessments and liens (all hereafter collectively referred to as "Restrictions") relating to the use and occupancy thereof, said Restrictions to be construed as covenants

running with the land which shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and which shall inure to the benefit of each owner thereof. Every person or other party hereafter acquiring any of the within described properties made subject to this Declaration, by acceptance of a deed to any interest in or to said property, shall take such property interest subject to this Declaration, and to the terms and conditions hereof and shall be deemed to have assented to same.

## ARTICLE I

## DEFINITIONS

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meanings:

1. "Association" shall mean and refer to Postwood Homeowners Association, Inc., a nonprofit corporation to be organized and existing under the laws of the State of Tennessee, its successors and assigns.

2. "Common Area(s)" shall mean and refer to any and all real property owned by the Association, or such other property to which the Association may hold legal title whether in fee or for a term of years, for the non-exclusive use, benefit and enjoyment of the members of the Association subject to the provisions of this Declaration, such Common Areas to include, without limitation, streets, sidewalks and other passageways, parks, walls and fences, green areas, identity signs, service courts, and all other areas within the property but excluding all individual building lots.

3. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the property which is recorded in the Register's Office of Davidson County, Tennessee.

4. "Developer" shall mean and refer to J. Richard Chambers, Trustee, his successors and assigns.

5. "Site" or "Lot" shall mean and refer to any plot of land to be used for residential purposes and so designated on a subdivision plat of this property, which shall be public record in the Register's Office for Davidson County, Tennessee.

6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Site which is a part of this development, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

7. "Properties" shall mean and refer to any and all of that certain real property now or which may hereafter be brought within that certain residential subdivision being developed by Developer in Nashville, Davidson County, Tennessee, which subdivision is and shall be commonly known as Postwood.

8. "Member" shall mean and refer to any person or persons who shall be an owner and, as such, shall be a member of the Association.

9. "Person" shall mean and refer to a natural person as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

10. "Postwood" shall mean and refer to that certain residential community known as Postwood, which is being developed on real property now owned by Developer in Nashville, Davidson County, Tennessee, together with such additions thereto as may from time to time be designated by Developer whether or not such properties are contiguous with or adjoining the boundary lines of Postwood as shown on the subdivision plat referred to hereinabove.

## ARTICLE II

## PROPERTIES SUBJECT TO THIS DECLARATION

Section One. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Nashville, Davidson County, Tennessee, and is more particularly described and shown on the residential plan of Postwood, consisting of lot numbers 1-38 and the Common Areas shown thereon. Only those lots and the Common Areas are made subject to this Declaration, provided, however, Developer reserves the right to subject other real property, both lots and Common Areas, to the restrictions set forth herein as provided below.

Section Two. Without further assent or permit, Developer hereby reserves the right, exercisable from time to time, to subject other real property to the restrictions set forth herein, in order to extend the scheme of this Declaration to other property to be developed as part of Postwood and thereby to bring such additional properties within the jurisdiction of the Association.

The additions herein authorized shall be made by filing of record one or more supplementary Declarations in respect to the properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for their just share of the Association's expenses. Each supplementary Declaration may contain such complementary additions and modifications of the Covenants, Conditions and Restrictions contained herein as may be necessary to reflect the different character of the added properties; provided, however, and such supplemental Declaration or any such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the properties subjected hereto.

## ARTICLE III

## ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section One. Membership. 1. Every person or entity who is the Owner of record of a fee interest in any lot within the Properties shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, By-Laws, rules and regulations. The foregoing is not intended to include persons or entities who hold an interest in any lot merely as security for the performance of an obligation. Ownership of such lot shall be the sole qualification for membership. When any lot is owned of record in tenancy by the entireties or tenancy in common or by some other legal entity, membership as to such lot shall be joint and the right of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section Two herein below.

2. During any period in which a member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association, the voting rights and right to the use of the Common Areas or any other facilities which the Association may provide may be suspended by the Board of Directors until such assessment is paid. In the event of violation by a member of any rules or regulations established by the Board of Directors, such member's voting and use rights may be suspended by the Board after a hearing at which the general requirements of due process requirements shall be observed. Such hearing shall only be held by the Board (or a committee thereof) after giving member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of any violation shall be made by a majority vote of the Board or the committee thereof.

3. No membership or initiation fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Association except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration, the By-Laws, or as the Developer or the Directors of the Association may from time to time hereafter adopt.

Section Two. Voting and Voting Rights. 1. The voting rights of the membership shall be appurtenant to the ownership of the lot. There shall be two classes of lots with respect to voting rights:

A. Class A. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined, and the Owner(s) of each such Class A Lot shall be entitled to one (1) vote.

When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot hall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Lot and in no event shall more than one (1) vote be cast with respect to any Lot.

B. Class B. Class B Lots shall be all Lots owned by Developer which have not been converted to Class A Lots as provided below. Developer shall be entitled to four (4) votes for each Class B Lot which it retains. The Clss B Lots shall cease to exist and shall be converted to Class A Lots when there are 28 owner occupied residences on Class A Lots.

2. Any member who is delinquent in the payment of any charges duly levied by the Association against a Lot owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Board of Directors of the Association may impose, have been paid.

3. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporation Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation.

4. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior to voting on any matter, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail.

5. The Developer shall have at least one (1) representative on the Board during the first five (5) years after the date hereof.

6. Upon the filing of supplements to this Declaration which add additional properties to the development, either in the form of additional Common Areas or additional Lots, or both, the time period specified above in Section 5 of this Article III shall be extended to run for the full period of five (5) years following the date of each such supplement.

## ARTICLE IV

## COMMON AREA PROPERTY RIGHTS

Section One. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, including any Common Areas which may be added in subsequent Phases of, or by supplements hereto, which shall be appurtenant to and shall pass with the title for every Lot subject to the provisions of this Declaration and the Charter and By-Laws of the Association, including, but not limited to, the following:

1. The right of the Association to limit the use of the Common Area to Owners, their families, and guests;

2. The right of the Association to suspend the voting and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations;

3. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties.

Section Two. The right and easement of enjoyment granted to every Owner in Section One of this Article may be exercised by members of the Owner's family. An Owner may, with the approval of the Board of Directors of the Association, delegate his rights of enjoyment in the Common Area to his tenants who occupy the residence of the Owner within the Properties.

Section Three. Every Owner shall have an interest in all of the property owned by the Association as is represented by the ratio of the number of votes to which said Member is entitled to the total number of votes, both Class A and Class B Members, in the Association.

## ARTICLE V

## COVENANT FOR MAINTENANCE ASSESSMENTS

Section One. Monthly or Annual Assessment for Maintenance Fund. For each Class A Lot owned within the Properties, every Owner covenants, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association monthly or annual assessments or charges for the creation and continuation of a maintenance fund in the amount hereinafter set forth, which may be levied by the Board of Directors of the Association.

Section Two. Purpose of Assessments. The assessments levied by the Association shall be used to provide funds for such purposes as the Association may determine are for the benefit of its Members, which purposes shall include maintenance, landscaping and beautification of the Common Areas, maintenance of all walkways, streets and passage ways, walls and fences constructed by Developer, and maintenance of all landscaped areas, including the yards of the Members, excepting only enclosed courtyards. Funds may also be used to provide other services for the Association Members to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, including but not limited to the cost of repair, replacement and additions thereto; the employment of a general manager and other personnel; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Area; the procurement and maintenance of insurance; the employment of attorneys, accountants and other personnel whom the Directors may determine to be useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; and such other needs as may arise.

Section Three. Creation of the Lien and Personal Obligation of Assessment. In order to secure payment at and after due date, as each assessment becomes due there shall arise a continuing lien and charge against each Lot, the amount of which shall include costs and reasonable attorney's fees to the extent permissible by law. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal oblgiation of the person who was the Owner of such property at the time when the assessment fell due, such personal obligation shall not pass to successors in title unless expressly assumed by them,provided such assumption shall not relieve such owner of such obligation if the same is not paid when due by the successor assuming it.

Section Four. Exempt Property. The assessments, charges and liens created under this Article V shall not apply to the Common Area, nor shall it apply to any lot, the title to which is vested either in any first mortgagee subsequent to foreclosure; provided, however, that upon the resale of such property by such first mortgagee the assessment herein provided shall again commence and accrue and shall be fully applicable to such lot upon the conveyance to any subsequent Owner. Any lot which Developer may hereafter designate for common use as part of the Common Area or otherwise shall be exempt from the assessments and charges created herein. In addition, all property dedicated to and accepted by a local public authority, all land granted to or used by a utility company shall be exempt from such assessments.

Section Five. Assessments Prior to Formation of the Association. The Developer shall have authority, from and after, to assess all lots within the development, prior to the incorporation of the Association and the election of its first Board of Directors, provided that the maximum assessment, per month shall not exceed Fifty ($50.00) Dollars per lot during the first year, provided further that this authority shall expire, in any event, six (6) years from the date hereof.

Section Six. Special Assessments. In addition to the monthly or annual assessments, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have affirmative votes of not less than a two-thirds (2/3) majority of a meeting of the members, held after not less than five (5) days notice in writing.

Section Seven. Date of Commencement of Annual or Monthly Assessment: Due Dates: Certificate of Payment. Annual or monthly assessments provided for herein shall commence as to all lots on the first day of July, 1977, or whenever the site preparation is completed, whichever is later. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed assessment reate shall be sent to every Owner. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid to date.

Section Eight. Effect of Non-Payment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at th maximum legal contract rate and to the extent allowed by law. The Association, its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the lot to which the assessment relates, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent.

## ARTICLE VI

## ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

The Developer shall have the responsibility for enforcing the restrictions set forth in this Article for the first four (4) years after the date hereof. Upon the incorporation of the Association, and after 28 residences are owned and occupied, the Board of Directors of the Association shall assume and be responsible for the enforcement hereof. References in this Article to the Developer shall, therefore, apply to the Association after it has been incorporated and has assumed the enforcement of these restrictions.

The following architectural, maintenance and use restrictions shall apply to each and every lot now or hereafter subjected to this Declaration.

Section One. Approval of Plans and Architectural Committee. No external construction, reconstruction, remodeling, alteration or addition to any structure, building, fence, wall, driveway, path or other external improvement of any nature shall be constructed without obtaining the prior written approval of the Developer as to the location of the same and as to its plans and specifications. For this purpose, the Developer shall establish a confidential Architectural Committee which shall have full authority to review and act upon requests for approval, and prior to the beginning of the contemplated work, two (2 complete sets of building plans and specifications must be submitted to the Developer for approval. The Architectural Committee shall be the sole arbiter of the same and may withhold approval for any reason, including purely aesthetic considerations. Upon approval being given, construction shall commence within ninety (90) days, and shall be prosecuted to completion promptly and in strict compliance with the approved plans, otherwise the approval shall be void. The failure of the Developer to act upon any set of plan and specifications within thirty (30) days from the date of the submission of the same shall constitute the approval of such plans. A reasonable fee, not exceeding

One Hundred ($100.00) Dollars, may be charged by the Developer to defray its costs incurred in considering and acting upon any proposed plans and specifications requiring changes to secure approval.

Section Two. Improvement, Setback and Use Restrictions.

1. All structures must be built to comply with the lot plan and plans and specifications therefore approved by the Developer or his designee. Before any house may be occupied, it must be completely finished.

2. Minimum setback requirements have been established but are not intended to gender uniformity. They are intended to avoid overcrowding and monotony. It is therefore intended that setbacks may be staggered, where appropriate, so as to preserve trees and to assure vistas of open areas. The Developer reserves the right to approve the lot plan and location of each house or other structure on each lot and to arrange the same in such manner as it shall deem in the best interests of the overall development. No building or structure, or any part thereof, shall be located on any lot nearer to the front line than the minimum setback lines shown on the recorded plan or as specified in Restrictions. For the purpose of determining compliance with the minimum setback requirement, eaves, porches, overhangs, and steps extending beyond the front wall of a structure shall not be considered as a part thereof.

3. The total floor living area of the main structure upon any lot, exclusive of open porches, patios, garages, carports, and breeze-ways, shall be not less than two thousand (2,000) square feet, and shall comply with the maximum and minimum ratios of land to building area as shown on the recorded plan.

4. No wall shall be built without the prior written approval of the Developer. No retaining wall shall extend to a height greater than 3 feet above the earth being retained and no wall or fence enclosing a paio or courtyard shall extend to a height greater than 6 feet from ground level. All walls and fences must be of brick,

stone, stucco, or other material approved by the Architectural Committee and of a style and designed approved by the Developer. All party walls must be approved by the Developer prior to commencing construction and shall be built at the sole expense of an owner or owners.

5. Swimming pools must be located to the rear of the main dwelling and shall be no nearer than five (5) feet to any lot line. Developer reserves the right to establish a uniform mail box and mail box location system.

6. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any lot. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on any lot, whether temporary or permanent, shall be walled in to conceal the same from the view of neighboring lots, roads, streets, and open areas. Plans for all screening walls and enclosures must be approved by the Developer or Architectural Committee.

7. No lumber, brick, stone, block, concrete or other building materials, nor any other thing used for building purposes shall be stored on any lot except for the purpose of construction on such lot, and then only for such length of time as is reasonably necessary for the construction of the improvements then in progress.

8. All utility meters, air conditioning compressors, and other like equipment shall not be visible from neighboring lots, roads, streets and open areas. Outdoor television antennas may be installed, with the prior approval of the Developer or Architectural Committee.

9. No owner shall excavate or extract earth from any of the lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which will materially affect the surface grade of surrounding lot except to the extent that fill may be required on certain lots as shown on the recorded plan. All fill shall be subject to the approval of the Developer or Architectural Committee, as to the nature of the fill employed and as to the manner and methods of installation.

10. Outside clotheslines and clothes hanging devices shall not be permitted and no clothes or rugs etc. will be cleaned, aired or dried outside, except as they are out of site of adjoining property areas.

11. All driveways shall have a hard surface construction with curb cuts approved by the Developer.

12. Each lot owner will be required to construct at his expense, a sidewalk in front of his house. The walk shall not be less than 3 feet in wideth or more than 5 feet as shown on the plan.

13. No advertising signs of any kind shall be located upon or displayed or otherwise displayed to view on any lot or improvement thereof, provided that this requirement shall not preclude the installation by the Developer of signs identifying the entire subdivision, and provided, further, that this requirement shall not preclude the placement by Home Owners of "For Sale" signs in the front of individual residences of such size, character and number as shall from time to time be approved by the Association.

14. No housetrailer, camper, boat, motorcycle, truck, van, or other like vehicles and no tent, shed or temporary structures shall be permitted on any lot unless screened from view of the adjoining lots, streets and Common Areas, provided, however, that temporary buildings may be permitted during the construction period of houses or as a temporary sales office for the Developer. No garage, outbuilding, trailer or other like construction shall be used for residential purposes, either temporarily or permanently.

15. No exposed concrete block will be permitted above ground level in the construction of any building, wall or fences.

16. All improvements shall be completed within one (1) year from the commencement of construction.

17. No synthetic roofing material or siding material shall be used on the exterior of any building, fence or wall.

18. No livestock, poultry, fowl, swine or other nuisances shall be permitted or kept upon the property.

19. All houses shall be equipped with a natural gas heating system and a natural gas hot water heater.

Section Three. Maintenance.

1. All lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective owners, both before and after the construction of residences thereon. Such maintenances shall include, but not be limited to, building, repairing, replacing and cleaning the roofs, gutters, downspouts, building surfaces, walkways, driveways, and other exterior improvements. To provide uniformity in the maintenance of the landscaping, the Developer may contract with one or more landscaping services to provide maintenance services for the Common Area and for all lots within the development, excepting only enclosed courts and patios at the rear of the residences. The cost of such maintenance shall be treated as a Common Area charge for all areas.

In the event any owner shall fail to complete his residence according to the approved plans or to maintain his lot and/or the improvements situated upon his or her lot in a manner satisfactory to the Association, the Association may, upon the vote of two-thirds (2/3) of the Association's Directors, and after ten (10) days notice in writing to the lot owner, and his continued failure to commence the correction of the matter in issue, enter upon said lot and complete, repair, maintain or restore the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such lot is subject and the owner shall be personally liable for the cost of such maintenance so incurred.

Section Four. Use of Premises.

Each lot shown on the recorded plan shall be used only for private residential purposes and not otherwise.

Each owner shall refrain from any act or use of his lot which could reasonably cause embarassment, discomfort, annoyance or nuisance to the neighborhood.

Section Five. Pets.

Household pets may be kept on any lot by the owner thereof in reasonable numbers for the sole pleasure and purposes of the occupants, but not for any commercial use or purposes. No pets shall be permitted in the Common Areas unless accompanyied by their owners and unless on a leash or under the absolute control of their owners and owners shall be responsible to clean up the common areas after their pets.

Section Six. Parking of Automobiles.

A minimum of two (2) off-street parking spaces for each resident must be provided by each lot owner, said parking places to be located to the side or rear of the residence. Parking for guests of residents and visitors may be provided by the Developer at the locations shown on the recorded plan, which space shall be for the use of guests of lot owners generally and shall not be assigned to individual lot owners.

Section Seven. Governmental Restrictions. Each owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

Section Eight. Exclusive Contractors. In order to minimize confusion and complications which may result from the construction of a number of residential units upon the properties at the same time, and in order to insure the maintenance of a high quality of construction, the Developer reserves the right to designate an approved list of contractors who shall be the exclusive contractors authorized and permitted to construct residential units or facilities upon lots within the Properties.

## ARTICLE VII

## EASEMENTS

Section One. General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth on the recorded plat(s) of survey upon which such Lot is shown. No structure(s) of any type shall be erected or placed upon any part of a Lot or Common Area which will interfere with the rights and use of any and all easements shown on said recorded plat.

Section Two. Emergency. There is hereby reserved without further assent or permit, a general easement to all policemen and security guards employed by Developer, or such public officials, firemen, ambulance personnel and all similar persons to enter upon the properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties.

Section Three. Common Areas. Perpetual easements are reserved in favor of all lot owners, their families, guests, and invitees for the use of all Common Areas as shown on the recorded plan and as described herein.

## ARTICLE VIII

## SALE OR LEASE OF LOTS

Section One. Right of First Refusal. To assure a community of congenial Owners and thus protect the value of the lots in Postwood, any Owner who desires to sell or lease any Lot or Lots, either improved or unimproved, shall first offer the same for sale or lease to Developer at the same price and on the same terms at which the highest bona fide offer has been made to the Owner therefor. An Owner desiring to sell or lease any Lot shall give Developer notice via certified mail, return receipt requested, of his desire to sell or lease such Lot(s) together with such other information as may be requested. Within thirty (30) days thereafter, Developer may (1) approve the transaction; (2) furnish a purchaser or lessee approved by the Association who will accept the transaction upon terms as favorable as those stated in the notice; (3) purchase or lease upon the same terms and conditions subject to the right of the Developer to obtain an appraisal which shall govern if the appraised value is less than the price at which the Owner intended to sell or lease; or (4) fail to respond in which event the transaction will be deemed approved. The right of first refusal granted by this Declaration to Developer shall extend to the first five (5) years following the date of Lot sale and thereafter the Association shall automatically succeed to Developer's rights under this Section One for the remaining duration of this Declaration. This right of first refusal does not apply to the holder of a mortgage or deed to secure debt upon the exercise of any power of sale, foreclosure or deed in lieu of foreclosure, upon said holder becoming the owner of a lot or upon the sale of said lot thereafter.

Section Two. Exclusive Agents. In order to protect the investments of the Owners, to minimize confusion resulting from the listing of residences or Lots for sale with multiple agents, and in

order to avoid the dissemination of erroneous information concerning Postwood, the Developer reserves the right for himself and subsequently the Association to designate certain exclusive agents who shall have the sole right to serve as sales agents for the sale and resale of Lots and residences within Postwood, except that this provision shall not apply when the seller is a financial institution which acquired title through foreclosure proceedings or by a deed in lieu of foreclosure.

## ARTICLE IX

## GENERAL PROVISIONS

Section One. Duration. The foregoing restrictions shall be construed to be covenants running with the land and shall be binding and effective until December 31, 2001, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by the vote of a majority in interest of the then Owners of the above described property to change, amend or revoke the restrictions in whole or in part. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Article.

Section Two. Amendment. The covenants and restrictions of this Declaration may be amended by the Developer, without joinder of any Lot owner, for a period of five (5) years from the date hereof (or from the date of the last supplement hereto which adds additional properties to Postwood ); thereafter by an agreement signed by at least two thirds (2/3) of the owners whose Lots are then subject hereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. By way of clarification, this process of amendment does not apply to "additions" as described in Article II, Section Two. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein.

Section Three. Enforcement. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for any other person, firm or corporation owning any property within Postwood to bring an action against the violating party at law or in equity for any claim which these restrictions may create in such other owner or interested party either to prevent said person, firm or corporation from so doing such acts or to recover damages for such violation. The provisions of this Section are in addition to and separate from the rights of the Association to collect Association fees. Any failure by Developer or any property Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall neither affect any of the other provisions not expressly held to be void nor the provisions so voided in circumstances or application other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated.

Section Four. Headings and Binding Effect.

Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.

Section Five. Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing restrictions with respect to any Lot, the Developer or its successors reserves the right (by and with the mutual written consent of the Owner or Owners for the time being of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Protective Covenants and Restrictions to be duly signed this 28th day of January, 1978.

By: _____
Richard Chambers, Trustee

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared J. Richard Chambers, Trustee, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the within named bargainor, and that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal, at office in Nashville, Tennessee, this 28th day of January, 1978.

NOTARY PUBLIC DAVIDSON COUNTY, TN. MARTHA MORRIS

_____
Notary Public

My commission expires: 8-13-78

Nashville City Bank and Trust Company, through its duly authorized officer, joins in the execution of this instrument for the purpose of subordinating its interest putsuant to a deed of trust from Richard Chambers, Trustee to John B. Hardcastle, Trustee for Nashville City Bank and Trust Company in the amount of Seven Hundred Fifty Thousand and No/100ths ($750,000.00) Dollars, to the terms and conditions of this document.

This the 28th day of January, 1977.

NASHVILLE CITY BANK AND TRUST COMPANY

By J. Richard Couch Sr Vice Pres.

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public within and for said State and County, A. Richard Chambers, with whom I am personally acquainted, and who upon his oath acknowledged himself to be the Senior Vice President and _____, ~~respectively~~, of Nashville City Bank and Trust Company, the within named, a corporation, and that as such duly authorized officers, executed the foregoing instrument for the purposes therein contained by signing as such Senior Vice President, ~~and~~ _____.

WITNESS my hand and official seal at 315 Union St., Nashville, Tn., this 28th day of January, 1977.

S. Davis Jr. Davis
Notary Public

My Commission Expires:

My Commission Expires AUG. 13, 1978

MARTHA MORRIS NOTARY PUBLIC DAVIDSON COUNTY, TN.

This instrument was prepared by: Derthey, Lackey & Chenault 218 3rd Ave North

BY-LAWS

OF

BOOK 5116 PAGE 250

POSTWOOD HOMEOWNERS ASSOCIATION, INC.

## ARTICLE I

The name of the Corporation is Postwood Homeowners Association, Inc. hereinafter referred to as the Corporation. The principal office of the Corporation shall be located at Davidson County, Nashville, Tennessee 37204, but meetings of members and Directors may be held at such places as may be designated by the Board of Directors.

## ARTICLE II

### Definitions

Section 1. "Corporation" shall mean and refer to the Postwood Homeowners Association, Inc., a Corporation not for profit, organized and existing under the laws of the State of Tennessee.

Section 2. "Properties" shall refer to that real property termed the Postwood Residential Development described in a plat of record in Book 5050, page 411, Register's Office for Davidson County, Tennessee.

Section 3. "Common Area" shall mean and refer to any and all real property owned by the Association, or such other property to which the Association may hold legal title whether in fee or in a term of years, for the non-exclusive use, benefit and the enjoyment of the members of the Association subject to the provisions of this Declaration, such Common Areas to include without limitation to streets, sidewalks and other passageways, parks, walls and fences, green areas, identity signs, service courts, and all other areas constructed within the property excluding all individual building lots.

Section 4. "Lot" shall mean and refer to any lot shown upon the plat of Postwood Residential Development of record in Book _____ page _____, Register's Office for Davidson County, Tennessee, except the common areas.

Section 5. "Owner" shall mean and refer to the record owner whether one or more persons or entities, of the fee simple title to any lot which is part of the properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Member" shall mean and refer to those persons or entities entitled to membership of either Class A or Class b.

Section 7. "Restrictive Covenants" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable. to the properties recorded in the Register's Office for Davidson County, Tennessee.

## ARTICLE III

### Membership Meetings

Section 1. Annual Meetings. There shall be an annual meeting of the membership at a time and place to be designated by a majority of the Directors.

Section 2. Special Meetings. Special Meetings of the membership may be called by the president, by a majority of the Board of Directors, or upon written request of members entitled to vote twenty-five per cent (25%) or more or all the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by the secretary, by mailing a copy of such notice at least fourteen (14) days before such meeting to each member entitled to vote thereat, addressed to the member's address as last appearing on the books of the Corporation. Such notice shall contain the place, day, and time of the meeting, and if a special meeting, the purpose thereof.

Section 4. Quorum. The presence of members entitled to cast, or proxies entitled to cast, one-third (1/3) of total votes outstanding from both classes combined shall constitute a quorum of members sufficient to take any action, except as otherwise required in the Charter, these By-Laws, or by law.

Section 5. Proxies. Each member may vote in person or by proxy at any meeting of the members. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and no proxy shall in any case extend beyond a period of eleven (11) months. Every proxy shall automatically cease upon conveyance by the member of his lot.

## ARTICLE IV

## Use of Common Areas, and Assessments

Section 1. Use of Common Areas. Each member shall be entitlted to use and enjoy the Common Areas and facilities thereon designated by the Directors for general use. Other persons may be permitted use and enjoyment of the Common Areas according to the rules and regulations governing the use thereof established and adopted by the Board of Directors.

Section 2. Assessments. All members shall be obligated to pay to the Corporation annual and special assessments, as more fully provided in the agreements of the Corporation which assessments shall be secured by a continuing lien upon the property against which the assessment is made.

## ARTICLE V

## Board of Directors

Section 1. Number. The affairs of the Corporation shall be managed by a Board of Directors, each of whom shall be a

member of the Corporation. There shall be initially three (3) Directors. At the annual membership meeting next following that date when the number of Class A membership certificates issued reaches or exceeds twenty-eight (28), the number of Directors will be increased to five (5).

Section 2. Term of Office. Directors shall be elected by the vote of the members at annual meetings, and shall serve terms of two (2) years. Under no circumstances shall more than three (3) Directors be elected for terms of two (2) years at any one annual meeting. The additional two (2) Directors to be added when the number of Class A membership certificates issued reaches or exceeds twenty-eight (28) initially shall be elected for either one (1) or two (2) year terms, as is necessary to insure the above. Subsequent election of Directors will in every instance be for terms of two (2) years.

Section 3. Vacancies. In the event of a vacancy in the Board of Directors created by any reason whatsoever, it shall be filled by a successor selected by a majority of the remaining Directors, who shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for serving as a member of the Board of Directors. Any Director may be reimbursed for actual expenses incurred in the performance of his duties.

Section 5. Action taken without a meeting. The Directors shall have the right to take any action which they could take at a meeting in the absence of a meeting by obtaining the written approval of all the Directors. Such action shall have the same effect as if taken at a meeting of the Directors.

## ARTICLE VI

## Meetings of Directors

Section 1. Regular Meetings. Regular meetings shall be held at the discretion of the Board, as it deems necessary, at such place and time as it sees fit, but in no event shall the Board of Directors allow more than one (1) year to pass between the meetings.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Corporation, or by any two (2) Directors.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business.

## ARTICLE VII

## Powers and Duties of the Board of Directors

Section 1. Powers. The Board of Directors shall have the power to:

a) adopt and publish rules and regulations governing the use of the Common Areas and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

b) establish, levy, assess, and collect the assessments or charges as may be necessary.

c) appoint and remove at pleasure all officers, agents, and employees of the Corporation, prescribe their duties, fix their compensation, and require of them such bond as may be deemed necessary. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer, or Director of the Corporation in any capacity whatsoever.

Section 2. Duties. It shall be the duty of the Board of Directors to:

a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting.

b) supervise all officers, agents, and employees of the Corporation and to see that their duties are properly performed.

c) fix the amount of the assessments and charges.

d) prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Corporation, and shall be open to inspection by any member.

e) send written notice of each assessment to every owner subject thereto.

f) issue or cause to be issued by an appropriate officer, upon demand by any person, a certificate setting forth whether any assessment has been paid. Such certificate shall constitute prima facie evidence of payment of any assessment stated therein to have been paid. A reasonable charge may be made by the Board for the preparation and issuance of such certificate.

## ARTICLE VIII

## Officers

Section 1. Enumeration. The officers of the Corporation shall be a president, a secretary and a treasurer who shall be elected from the membership of the Board of Directors.

Section 2. Election. The officers shall be chosen by a majority of the Directors at the first meeting of the Board of Directors following the annual membership meeting.

Section 3. Term. The officers each shall hold office for a term of one (1) year, unless earlier removed by a majority of the Directors with or without cause.

Section 4. Vacancies. A vacancy in any office, created by any reason whatsoever, shall be filled by appointment by a majority of the Board of Directors, which appointee shall serve for the remainder of his predecessor's term.

Section 5. The duties of the officers:

a) The president. The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out, and sign all notes, checks, leases, mortgages, deeds, agreements, and all other written instruments.

b) The secretary. The secretary shall be ex officio the secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose; sign all certificates of membership; keep the records of the Corporation; record in a Book kept for that purpose the names of all members of the Corporation together with their addresses as registered by such members.

c) The treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors, provided however, that a resolution of the Board of Directors shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board; sign all checks and notes of the Corporation provided that such checks and notes shall also be signed by the President; keep proper books of account; cause an annual audit of the Corporation books to be made by a public accountant at the completion of each physical year; prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

## ARTICLE IX

## Committees

There shall be such committees as the Directors shall establish from time to time.

ARTICLE X

Books and Records

The Books, records, and papers of the Corporation shall at all times, during reasonable business hours, be subject to the inspection of any member.

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ARTICLE XI

Corporate Seal

This Corporation shall have no seal.

ARTICLE XII

Amendments

Section 1. These By-Laws may be amended at any regular or special meeting of the members by vote of a majority of the members present in person or by proxy.

Section 2. In the case of any conflict between the Charter of the Corporation and these By-Laws the Charter shall control, and in the case of any conflict between the Restrictive Covenants and these By-Laws, the Restrictive Covenants shall control.

D89905

IDENTIF. REFERENCE

FEB 17 2 56 PM '77

REGISTER
DAVIDSON COUNTY, TENN.